

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

ORIGINAL APPLICATION NO. 547 OF 1998
Cuttack this the 10th day of May 2000

Bharat Chandra Roul

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN *10.5.2000*

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

ORIGINAL APPLICATION NO. 547 OF 1998
Cuttack this the 10th day of May 2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM VICE-CHAIRMAN

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Bharat Chandra Roul
aged about 38 years
Son of Late Paramananda Roul
of Village Khunta
PO: Kamardiha
P.S: Rasgovindpur
Dist: Mayurbhanj

By the Advocates : M/s.R.N.Nayak-2
K.K.Sahoo

Applicant

-Versus-

1. Union of India represented by
Secretary Ministry of Railways
New Delhi
2. Divisional Railway Manager(P)
South Eastern Railway
Kharagpur
3. General Manager
South Eastern Railway
Garden Reach
Calcutta
4. P.W. Inspector
South Eastern Railway
Jaleswar
Dist: Balasore

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Respondents

By the Advocates : Ms. C.Kasturi
Addl.Standing Counsel
(Railways)

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ORDER

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MR. SOMNATH SOM VICE-CHAIRMAN: In this Application under Section 19 of the Administrative Tribunals Act 1985 the petitioner has prayed for direction to respondents to give him appointment under compassionate ground.

2. The case of the applicant is that his father was working as C.P.C. Gangman under R.W.T. Jaleswar from 5.7.1970. He expired on 7.4.1985 leaving behind his widow, his only son the present applicant before me and an unmarried daughter who was subsequently married. Legal Heir Certificate dated 9.11.1993 is at Annexure-3. The applicant has stated that he applied for compassionate appointment in the same year in which his father passed away. This representation is at Annexure-4 but no action was taken on that representation. The mother of the applicant also filed representation for giving compassionate appointment to the applicant but without any result. Ultimately the departmental authorities issued letter dated 28.1.1994 (Annexure-8) in response to her representation dated 12.11.1994 directing to produce certain documents along with her son the present applicant. The applicant has stated that relevant documents were produced but no favourable orders were received; that is why he has approached the Tribunal with the prayers referred to earlier.

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3. Respondents in their counter have opposed the prayer of the applicant. They have stated that the father of the applicant was working as Gangman with temporary status. He was sent for medical examination presumably with a view to regularisation but he was declared unfit for railway service in the medical examination held on

4.1.1985. Thereafter he was not in service and expired on 7.5.1985. Respondents have stated that the applicant's father was not in service when he passed away and therefore compassionate appointment cannot be given to the applicant. It is further stated that applicant's mother was indeed called to produce documents in letter under Annexure-8 but after production of the documents and examination of the case it was found that the applicant's father was a casual labourer who was declared medically unfit for railway service and before his death he was not in service. Therefore compassionate appointment cannot be given to the applicant. On the above grounds respondents have opposed the prayer of the applicant.

4. Heard Shri R.N.Nayak-2 learned counsel for the applicant and Ms. C.Kasturi learned Addl.Standing Counsel appearing for the respondents(Railways) and also perused the records.

5. It has been submitted by the learned Addl.Standing Counsel that as per prevailing rules and instructions any family member of a ^{deceased} casual labourer is not entitled to get the rehabilitation assistance and such assistance can be provided only with the special recommendation of the General Manager. It has also been stated that applicant's father was not in service at the time of death and therefore the applicant is not entitled to compassionate appointment. I find from the documents enclosed by the applicant himself that his father passed away on 7.4.1985. From the legal heir certificate enclosed by the applicant at Annexure-3 it is seen that on the date of issue of the Legal Heir Certificate on 9.11.1983 the

applicant was 30 years old. From this it is clear that at the time of death of his father the applicant was 22 years old i.e. to say he was major. In another representation filed by the applicant's mother the date has been corrected. The third representation purportedly made by the applicant vide Annexure-6 is also without any date. From the letter at Annexure-8 it appears that this letter was issued by the departmental authorities to applicant's mother in response to her representation dated 12.11.1993. In the absence of any proof that the applicant had in fact filed representation immediately after the death of his father it cannot be accepted that he had actually filed representation immediately his father passed away. From the material on record filed by the applicant himself it prima facie appears that the mother of the applicant filed a representation on 12.11.1993 in response to which she was asked to produce the relevant documents and also to present his son in person for considering the case for compassionate appointment. From the above it is clear that the applicant had waited for more than eight years after the death of his father to apply for compassionate appointment. In view of this it cannot be said that this is a fit case where compassionate appointment should be given even by the General Manager by special dispensation under the prevailing instructions. Hon'ble Supreme Court has laid down that a claim for compassionate appointment is not a vested right in a member of the deceased family so that the right could be exercised and enforced at any time in future. In view of the above I hold that the application is without any merit and the same is rejected but without any order as to costs.

(SOMNATH SOM)
VICE-CHAIRMAN